

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARTIN DERCHI RUSSO,
Plaintiff,

No. CV 11-1252 EJD
No. CV 11-1278 CW
No. CV 11-1365 PJH

v.

FINISAR CORPORATION, et al.
Defendant.

**ORDER GRANTING MOTION TO
RELATE CASES; SETTING CASE
MANAGEMENT CONFERENCE**

Presently before the Court is Defendants Finisar Corporation, Jerry S. Rawls, Eitan Gertel and Kurt Adzema's (collectively, "Defendants") unopposed Administrative Motion to Consider Whether Cases Should be Related. (Hereafter, "Motion," CV 11-1252 EJD, Docket Item No. 12.) Defendants seek the Court's determination as to whether Wilson v. Finisar Corporation, et al., Case No. CV 11-1278 CW and Wade v. Finisar Corporation, et al., Case No. CV 11-1635 PJH, should be related to this action, Derchi-Russo v. Finisar Corporation, et al., Case No. CV 11-1252 EJD. Defendants contend that all three cases assert nearly identical claims against the same defendants, based on the same statements allegedly made between the same dates. Further, in each case, the claims are asserted on behalf of an almost identical alleged plaintiff classes of securities purchasers. (Motion at 1.)

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Civil Local Rule 3-12(a) provides:

An action is related to another action when:

(1) The action concerns substantially the same parties, property, transaction or event; and

(2) It appears likely that there will be an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different judges.

Here, the Court finds the three actions involve an overlapping class of Plaintiffs that purchased or otherwise acquired Finisar securities between December 1, 2010 and March 8, 2011 and were allegedly misled by the same statements regarding Finisar.¹ Plaintiffs allege in all three cases that Defendants' made false and/or misleading statements and failed to disclose material adverse facts about Finisar's business, operations, and prospects. (See *id.*) All three cases allege similar causes of action, and thus involve the same issues of law relating to Sections 10(b) and 20(a) of the Securities Exchange Act of 1934. (*Id.*) The Court also finds that the three actions pose a substantial risk of inconsistent judgments. In light of the substantial similarity of parties and events, the Court finds that there is a risk of "an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different judges." Thus, the Court finds that the cases are related within the meaning of Rule 3-12(a).

Accordingly, the Clerk of Court shall immediately relate Derchi-Russo v. Finisar Corporation, et al., Case No. CV 11-1252 EJD to Wilson v. Finisar Corporation, et al., Case No. CV 11-1278 CW and Wade v. Finisar Corporation, et al., Case No. CV 11-1635 PJH.

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¹ (Compare Class Action Complaint, CV 11-1252 EJD, Docket Item No. 1 with Class Action Complaint, CV 11-1278 CW, Docket Item No. 1 and Class Action Complaint, CV 11-1635 PJH, Docket Item No. 1.)

1 The parties in all three cases shall appear for a Case Management Conference on **June 15,**
2 **2011 at 9 a.m.** On or before **June 6, 2011**, the parties shall file a Joint Case Management
3 Statement. The Statement shall address whether the cases should be consolidated and if so, a
4 schedule for nomination of Lead Plaintiff and Lead Counsel.

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6 **IT IS SO ORDERED.**

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8 Dated: May 4, 2011



Edward J. Davila
UNITED STATES DISTRICT JUDGE